



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/218,085	12/22/1998	JAY S. WALKER	WD2-98-038	3571

22927 7590 10/19/2004

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER

WASYLCHAK, STEVEN R

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/218,085

Applicant(s)

WALKER ET AL.

Examiner

Steven R. Wasylchak

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/26/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50,51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50,52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claim 51 is cancelled. Claim 49 is amended. New claim 52 has been added.

Claims 1-50 and 52 are pending.

2. In view of the Appeal Brief filed on Dec. 15, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3624

4. Claims 1-12, 14-50 and 52 are rejected under 35 U.S.C.103(a) as being unpatentable over Picioccio et al (US 5,997,236) and in view of Rossides (US 5,269,521).

As per Claim 1,

Picioccio discloses a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the method comprising:

a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I col 9, L 1-4, 56-61.

Picioccio does not explicitly teach normal price data or minimum acceptable price data for each of a plurality of products. However, Rossides discloses normal price data or minimum acceptable price data for each of a plurality of products. I abstract (expected price, price offered), col 8, L 5-22, 65-68; col 9, L 34-38; col 15, L 9-16; col 16, L 15-53.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use these features for the advantage of increasing sales and moving inventory.

b. identifying a monetary value available for purchasing a product; I col 9, L 19-29

c. selecting a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I col 1, L 24-27. Picioccio does not teach a minimum acceptable price. However, Rossides discloses minimum acceptable price data. I abstract; col 8, L 5-22, L 65-68; col 9, L 34-38. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use this feature for the advantage of increasing sales and moving inventory.

Art Unit: 3624

d. outputting via an output device an offer of the product to a consumer; I col 9, L 52-54

e. determining whether the consumer accepts the offer; and I col 9, L 52-54

f. dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I col 9, L 52-56

As per Claim 2,

Picioccio discloses receiving the monetary value from the consumer. I Picioccio as applied to claim 1 and col 3, L 37-50; col 4, L 43-47

As per Claim 3,

Picioccio discloses that the step of receiving the monetary value includes receiving a credit card account identifier. I Picioccio as applied to claim 1, 2 and col 3, L 37-50; col 4, L 43-47

As per Claim 4,

Picioccio discloses that the step of receiving the monetary value includes receiving a smart card identifier. I refer to reasoning directly above

As per Claim 5,

Picioccio discloses that the step of receiving the monetary value includes receiving an electronic representation of currency. / refer to reasoning directly above

As per Claim 6,

Picioccio discloses that the database includes category data for each of the plurality of products, and the step of selecting is further based on the category data. I Picioccio as applied to claim 1 and col 9, L 30-36

Art Unit: 3624

As per Claim 7,

Picioccio discloses receiving a category selection from the consumer. I Picioccio as applied to claim 1, 6 and col 9, L 24-29

As per Claim 8,

Picioccio discloses the step of selecting a product includes selecting a combination of products. I Picioccio as applied to claim 1 and col 2, L 26-37

As per Claim 9,

Picioccio discloses that the step of maintaining includes determining minimum acceptable price data based on sales activity. / Picioccio as applied to claim 1 and col 9, L 56-57

As per Claim 10,

Picioccio discloses that the step of identifying includes receiving minimum acceptable price data from an operator. I Picioccio as applied to claim 1 and col 1, L 39-53. Picioccio does not explicitly disclose minimum acceptable price data. However, Rossides discloses minimum acceptable price data. I abstract; col 8, L 5-22, L 65-68; col 9, L 34-38. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use this feature for the advantage of increasing sales and moving inventory.

As per Claim 11,

Picioccio discloses that the step of determining whether the monetary value is at least as great as the lowest minimum acceptable price, and the step of offering is performed only upon determining that the monetary

Art Unit: 3624

value is at least as great as the lowest minimum acceptable price. I Picioccio as applied to claim 1 and col 1, L 44-53; col 5, L 20-24. Picioccio does not explicitly do any price comparison with lowest minimum acceptable price. However, Rossides discloses price comparison with lowest minimum acceptable price I col 9, L 34-38; col 10, L 19-24; col 13, L 29-32. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use this feature for the advantage of increasing sales and moving inventory.

As per Claim 12,

Picioccio discloses that the step of determining includes providing a predetermined amount of time during which the consumer may refuse to accept the product. I Picioccio as applied to claim 1 and col 9, L 1-4. Picioccio does disclose the component that may create a time delay, the PLC (col 9, L 1-4). Picioccio does not explicitly disclose the time delay for optional refusal. Official notice is taken that it is old and well known in the vending art for a customer to refuse to select and push the return change button. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a microcontroller or PLC to create a time delay feature for possible rejection of the product to allow more choices for the customer.

As per Claim 14,

Picioccio discloses that the database includes profitability data for each of the plurality of products and the step of selecting is further based on the profitability data. / Picioccio as applied to claim 1 and col 9, L 56-67

As per Claim 15,

Picioccio discloses that the database includes demand data for each of the plurality of products and the step of selecting is further based on the demand data. / Picioccio as applied to claim 1 and col 9, L 56-67

As per Claim 16,

Picioccio discloses a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the method comprising:

- a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 1 a
- b. receiving a first monetary value from a consumer; / refer to reasoning under claim 2
- c. receiving a selection of a first product from the consumer; / refer to reasoning under claim 1 c
- d. retrieving a price of the first product from the database of product data; /refer to reasoning under claim 1 d
- e. calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. / col 1, L 44-54; col 5, L 20-23
- f. selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; / col 1, L 24-28. Picioccio does not explicitly teach the option of selecting a second product from among the plurality of

Art Unit: 3624

products based on the second monetary value and the minimum acceptable price data. Official notice is taken that crediting "change" or refunds to the next payment is old and well known in the credit and debt payment (as in the income tax refund option to credit the refund to the next year tax liability) art. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use refunds for complementary purchases and thus to maximize sales.

g. outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 1 d

h. determining whether the consumer accepts the offer; and / refer to reasoning under claim 1 e

i. dispensing the product if the consumer accepts the product; #hereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f

As per Claim 17,

Picioccio discloses a method comprising:

calculating an additional amount, the additional amount being the difference between the second monetary value and the minimum acceptable price of the second product;

and / Picioccio as applied to claim 16 and Picioccio again in col 1, L 44-53

prompting the consumer to supply funds at least equal to the additional amount. /

Picioccio as applied to claim 16 and again in Picioccio in col 1, L 44-47. Picioccio does not explicitly teach "upsell" or the handling of change or refund from the vending machine. However, Rossides discloses upsell or the handling of change or refund from the vending machine. I col 8, L 5-22, L 65-69; col 11, L 19-24. It would have been

Art Unit: 3624

obvious to one of ordinary skill in the art at the time of applicant's invention to use refunds for complementary purchases and thus to maximize sales.

As per Claim 18,

Picioccio discloses that the database includes complementary product data for each of the plurality of products and wherein the step of selecting is further based on the first product and the complementary product data for the first product. / Picioccio as applied to claim 16 and again in Picioccio: col 5, L 20-24. Picioccio does not teach complementary products. However, official notice is taken that complementary products are old and well known in the food retail industry. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use complementary data for marketing feedback to determine the degree of correlation among various complementary pairs to increase sales.

As per Claim 19,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:

- a. a processor; / Picioccio: col 5, L 20-26
- b. a memory connected to said processor storing a program to control the operation of said processor; / refer to reasoning directly above
- c. the processor operative with the program in the memory to: maintain a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 1 a.

Art Unit: 3624

d. identify a monetary value available for purchasing a product; I refer to reasoning under claim 1 b.

e. select a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I refer to reasoning under claim 1 c.

f. output via an output device an offer of the product to a consumer; I refer to reasoning under claim 1 d.

g. determine whether the consumer accepts the offer; and I refer to reasoning under claim 1 e.

h. dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 1 f.

As per Claim 20,

Picioccio discloses the processor is operative with the program in the memory to determine the monetary value received from the consumer. I Picioccio as applied to claim 19 and again in Picioccio: col 5, L 20-26

As per Claim 21,

Picioccio discloses that the database includes category data for each of the plurality of products and the step of selecting is based on the category data. I Picioccio as applied to claim 19, 20 and refer to reasoning under claim 6

As per Claim 22,

Picioccio discloses the processor is operative with the program in the memory to receive a category selection from the consumer. / Picioccio as applied to claim 19 and refer to reasoning under claim 7

Art Unit: 3624

As per Claim 23,

Picioccio discloses the processor is operative with the program in the memory to select a combination of products. / Picioccio as applied to claim 19 and refer to reasoning under claim 8

As per Claim 24,

Picioccio discloses the processor is operative with the program in the memory to determine minimum acceptable price data based on sales activity. I Picioccio as applied to claim 19 and refer to reasoning under claim 9

As per Claim 25,

Picioccio discloses the processor is operative with the program in the memory to receive minimum acceptable price data from an operator. I Picioccio as applied to claim 19 and refer to reasoning under claim 10

As per Claim 26,

Picioccio discloses the processor is operative with the program in the memory to determine whether the monetary value is at least as great as the lowest minimum acceptable price, and to offer the product performed only upon determining that the monetary value is at least as great as the lowest minimum acceptable price. I Picioccio as applied to claim 19 and refer to reasoning under claim 11

As per Claim 27,

Picioccio discloses the processor is operative with the program in the memory to provide a predetermined amount of time during which the consumer may refuse to

Art Unit: 3624

accept the product. I Picioccio as applied to claim 19 and refer to reasoning under claim 12

As per Claim 28,

Picioccio discloses the database includes expiration data for each of the plurality of products and the processor is further operative with the program in the memory to select the product based on the expiration data. I Picioccio as applied to claim 19 and refer to reasoning under claim 13

As per Claim 29,

Picioccio discloses the database includes profitability data for each of the plurality of products and the processor is further operative with the program in the memory to select the product based on the profitability data. I Picioccio as applied to claim 19 and refer to reasoning under claim 14

As per Claim 30,

Picioccio discloses that the database includes demand data for each of the plurality of products and the processor is further operative with the program in the memory to select the product based on the demand data. I Picioccio as applied to claim 19 and refer to reasoning under claim 16

As per Claim 31,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:

a processor; I refer to reasoning under claim 19 a.

a memory connected to said processor storing a program to control the

Art Unit: 3624

operation of said processor; I refer to reasoning under claim 19 b. the processor operative with the program in the memory to:

maintain a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; / refer to reasoning under claim 16 a.

receive a first monetary value from a consumer; / refer to reasoning under claim 16 b.

receive a selection of a first product from the consumer; I refer to reasoning under claim 16 c.

retrieve a price of the first product from the database of product data; I refer to reasoning under claim 16 d.

calculate a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product I refer to reasoning under claim 16 e.

select a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; I refer to reasoning under claim 16 f.

output via an output device an offer of the second product to the consumer; I refer to reasoning under claim 16 g.

determine whether the consumer accepts the offer; and I refer to reasoning under claim 16 h.

dispense the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 16 i.

Art Unit: 3624

As per Claim 32,

Picioccio discloses the processor is operative with the program in the memory to:

calculate an additional amount, the additional amount being the difference

between the second monetary value and the minimum acceptable price of the second

product; and I Picioccio as applied to claim 31 and refer to reasoning under claim 17

prompt the consumer to supply funds at least equal to the additional amount. I Picioccio

as applied to claim 31 and refer to reasoning under claim 17

As per Claim 33,

Picioccio discloses that the database further includes complementary product data for

each of the plurality of products and the processor is operative with the program in the

memory to select the product based on the initial product and the complementary

product data for the initial product. I Picioccio as applied to claim 31 and refer to

reasoning under claim 18

As per Claim 34,

Picioccio discloses an automatic sales machine for selling a product, the product

identity being concealed at the time of offer, the sales machine comprising:

means for maintaining a database of product data, including normal price data and

minimum acceptable price data for each of a plurality of products; I refer to reasoning

under claim 1 a.

means for identifying a monetary value available for purchasing a product; I refer to

reasoning under claim 1 b.

means for selecting a product from among the plurality of products based on

Art Unit: 3624

the monetary value and the minimum acceptable price data; / refer to reasoning under claim 1 c.

means for outputting via an output device an offer of the product to a consumer; / refer to reasoning under claim 1 d.

means for determining whether the consumer accepts the offer; and / refer to reasoning under claim 1 e.

means for dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f.

As per Claim 35,

Picioccio discloses comprising the means for receiving the monetary value from the consumer. I Picioccio as applied to claim 34 and refer to reasoning under claim 5

As per Claim 36,

Picioccio discloses the database includes category data for each of the plurality of products and the means for selecting is further based on the category data. I Picioccio as applied to claim 34 and refer to reasoning under claim 6

As per Claim 37,

Picioccio discloses the comprising means for receiving a category selection from the consumer. I Picioccio as applied to claim 34 and refer to reasoning under claim 7

Art Unit: 3624

As per Claim 38,

Picioccio discloses the means for selecting a product includes means for selecting a combination of products. I Picioccio as applied to claim 34 and refer to reasoning under claim 8

As per Claim 39,

Picioccio discloses the means for maintaining includes means for determining minimum acceptable price data based on sales activity. I Picioccio as applied to claim 34 and refer to reasoning under claim 9

As per Claim 40,

Picioccio discloses the means for identifying includes means for receiving minimum acceptable price data from an operator. I Picioccio as applied to claim 34 and refer to reasoning under claim 10

As per Claim 41,

Picioccio discloses means for determining whether the monetary value is at least as great as the lowest minimum acceptable price, and wherein the means for offering is operative only upon determining that the monetary value is at least as great as the lowest minimum acceptable price. / Picioccio as applied to claim 34 and refer to reasoning under claim 11

As per Claim 42,

Picioccio discloses the means for providing a predetermined amount of time during which the consumer may refuse to accept the product. I Picioccio as applied to claim 34 and refer to reasoning under claim 12

Art Unit: 3624

As per Claim 43,

Picioccio discloses that the database includes expiration data for each of the plurality of products and the means for selecting operates based on the expiration data. I Picioccio as applied to claim 34 and refer to reasoning under claim 13

As per Claim 44,

Picioccio discloses that the database further includes profitability data for each of the plurality of products and the means for selecting operates based on the profitability data. I Picioccio as applied to claim 34 and refer to reasoning under claim 14

As per Claim 45,

Picioccio discloses that the database includes demand data for each of the plurality of products and the means for selecting operates based on the demand data. / Picioccio as applied to claim 34 and refer to reasoning under claim 15

As per Claim 46,

Picioccio discloses an automatic sales machine for selling a product, the product identity being concealed at the time of offer, the sales machine comprising:
means for maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 16 a.

means for receiving a first monetary value from a consumer; means for receiving a selection of a first product from the consumer; I refer to reasoning under claim 16 b.

Art Unit: 3624

means for retrieving a price of the first product from the database of product data; I refer to reasoning under claim 16 c.

means for calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. / refer to reasoning under claim 16 d.

means for selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable-race data; / refer to reasoning under claim 16 e.

means for outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 16 f.

means for determining whether the consumer accepts the offer; and I refer to reasoning under claim 16 g.

means for dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. I refer to reasoning under claim 16 h.

As per Claim 47,

Picioccio discloses the means for calculating an additional amount, the additional amount being the difference between the monetary value and the minimum acceptable price of the second product; and means for prompting the consumer to supply funds at least equal to the additional amount. I Picioccio as applied to claim 46 and refer to reasoning under claim 17

Art Unit: 3624

As per Claim 48,

Picioccio discloses that the database includes complementary product data for each of the plurality of products and the means for selecting operates based on the initial product and the complementary product data for the initial product. / Picioccio as applied to claim 46 and refer to reasoning under claim 18

As per Claim 49,

Picioccio discloses a computer-readable storage medium encoded with processing instructions for implementing a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the processing instructions for directing a computer to perform the steps of:

- a. maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 1 a.
- b. identifying a monetary value available for purchasing a product; I refer to reasoning under claim 1 b.
- c. selecting a product from among the plurality of products based on the monetary value and the minimum acceptable price data; I refer to reasoning under claim 1 c.
- d. outputting via an output device and offer of the product to a consumer via an output device; I refer to reasoning under claim 1 d.
- e. determining whether the consumer accepts the product; and I refer to reasoning under claim 1 e.

Art Unit: 3624

f. dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 1 f.

As per Claim 50,

Picioccio discloses a computer-readable storage medium encoded with processing instructions for implementing a method for selling a product from a vending machine, the product identity being concealed at the time of offer, the processing instructions for directing a computer to perform the steps of:

maintaining a database of product data, including normal price data and minimum acceptable price data for each of a plurality of products; I refer to reasoning under claim 16 a.

receiving a first monetary value from a consumer; / refer to reasoning under claim 16 b.

receiving a selection of a first product from the consumer; I refer to reasoning under claim 16 c.

retrieving a price of the first product from the database of product data; I refer to reasoning under claim 16 d.

calculating a second monetary value, the second monetary value being the difference between the first monetary value and the price of the first product. I refer to reasoning under claim 16 e.

selecting a second product from among the plurality of products based on the second monetary value and the minimum acceptable price data; / refer to reasoning under claim 16 f.

outputting via an output device an offer of the second product to the consumer; / refer to reasoning under claim 16 g.

determining whether the consumer accepts the offer; and / refer to reasoning under claim 16 h.

dispensing the product if the consumer accepts the product, thereby revealing the identity of the product to the consumer. / refer to reasoning under claim 16 i.

As per claim 52 (new),

A method for selling from a vending machine, the method comprising:

receiving currency that represents a first monetary amount; /

receiving a selection of a first product; /

determining a price of the first product; /

determining a demand of the first product; /

calculating a second monetary amount based on the difference between the first monetary value and the price of the first product. /

selection a second product from; the plurality of products based on the second monetary value and minimum acceptable price data for the plurality of products; /

outputting an offer of the selected second product without disclosing the identity of the selected second product; /

receiving an acceptance of the offer; and /

dispensing the selected second product. / all refer to claim 1

Art Unit: 3624

5. Claim 13 is rejected under 35 USC 103(a) as being unpatentable over Picioccio et al as applied to claim 1 and in view of Roberts (US 5,772,510).

Picioccio discloses the database I fig 11 (242). Neither Picioccio nor Rossides explicitly disclose expiration data for each of the plurality of products and the step of selecting is further based on the expiration data. However, Roberts discloses expiration data for each of the plurality of products and the step of selecting is further based on the expiration data. I fig 2A(drawing at 7:00; fig 8B(7:30 PM). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use this feature for the advantage of moving old inventory and thus maintaining customer satisfaction.

This action is NON-FINAL. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday - Thursday from 8:00am to 6:30pm.

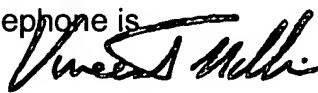
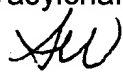
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone is

(703) 308-1113

Steven R Wasylchak

10/15/04



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600